

Joint Committee of Public Accounts and Audit Review of Coastwatch

SUBMISSION

Introduction

This submission only addresses the review point, "whether an Australian Coastguard should be created to take over Coastwatch's functions".

Background

The threat of breaches of Commonwealth legislation in the coastal zone and the need for aerial surveillance by a single agency were skillfully discussed by Hugh Hudson in the report of his benchmark study, 'A report on the Administration and Management of Civil Coastal Surveillance in Northern Australia', Canberra, April 1988.

The major thrust of the report was that a single agency be created to conduct aerial surveillance and arrange response, and that it be serviced (or rationed) but not administered or controlled by the Department of Transport & Communications (Recommendation 4). The philosophy expounded by Hudson was accepted by the Government but it decided to create the agency as the 'Coastwatch' sub-program of the Australian Customs Service (ACS)

The same considerations pertained to surface surveillance at that time and still pertain to coastal information gathering and response. However, Mr. Hudson was not asked to specifically address the surface surveillance/response side of the equation. The surface functions have remained substantially in the fragmented state that aerial surveillance was in before the adoption of the Hudson Report. For example, surface functions are currently undertaken by:

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| Naval vessels | sometimes with other Commonwealth Officers on-board; |
| Customs vessels | sometimes with other Commonwealth Officers on-board; |
| State agency vessels | when a Commonwealth Authorized Officer is on-board; and, |
| Charter vessels | when a Commonwealth Authorized Officer is on-board. |

At present Coastwatch functions include arranging surface response on behalf of other agencies. However, its ability to coordinate the response is limited by having to negotiate with vessel managers, who guard their prerogative to control their resources. Vessel managers have to compete for operational funding, as was the case with aerial resources pre the current Coastwatch arrangements.

The US Coast Guard as a Model

SILER: Actually, we are flattered that other countries come to us for help; especially when they say, "We'd like to establish a Coast Guard." But after they grasp the broad picture of our operations, they usually narrow their fields. In most cases they are after the establishment of Customs Coastal Patrol Forces.¹

All Admiral Siler's successors would probably give a similar response and although Australia may want to go a little further than he suggests it would be unwise to create an entity called "Coastguard". That would raise unrealistic public expectations that our "Coastguard" would perform the same functions as the US Coast Guard, as depicted by the entertainment and news media.

An Alternative Model

It is suggested that the most cost effective way to encourage compliance with all Commonwealth legislation capable of being breached between the coastal hinterland and the outer limits of the Exclusive Economic Zone (EEZ) would be to:

Create a Commonwealth Coastal Control Service within an existing Commonwealth Department or Agency, options include the Department of Defence, the Australian Federal Police and the Australian Customs Service.

The Charter of the Commonwealth Coastal Control Service would be:

To counter the threat of Australian and foreign civilians breaching Commonwealth legislation between the outer limits of the Exclusive Economic Zone and the hinterland of the coast including waterways connected to the sea.

The Functions of the Commonwealth Coastal Control Service would be:

To conduct aerial and surface surveillance, undertake control and enforcement action, collate and disseminate information to other relevant agencies.

The resources for the Commonwealth Coastal Control Service should initially be provided by:

Transferring the personnel, equipment, and financial resources currently committed to the above functions by Commonwealth agencies. The commitments can be established by reference to their most recent Budget Submission or Annual Report. Without competing priorities from other agencies this entity could then rationalize the resources and conduct the functions more cost effectively.

The proposed entity could be modeled so that it would cost roughly the same as the current arrangements, when all the hidden costs are taken into account. E.g. the full cost of using naval vessels, the cost of paying state governments to provide fisheries officers, etc.

¹ Admiral Owen W. Siler, Commandant US Coast Guard; interview in Ocean Industry November 1974

Title

Acceptance of the new entity by the stakeholders will be essential to its success and an important element for acceptance by stakeholders will be the title for the new entity. The rationale for the title 'Commonwealth Coastal Control Service' is as follows:

Commonwealth	<p>to minimise any impression that the setting-up of such an entity is the birth of an organisation to infringe upon 'states rights' to enforce their legislation;</p> <p>to make it obvious that the Charter and Functions of the entity cover all Commonwealth legislation not primarily that of the agency with which it is located.</p>
Coastal	to relate the title to the area of application of the entity's Charter and Functions, i.e. the coastal zone, land, sea and air, in contrast to a title including 'marine' which gives the impression of solely 'on the water' functions;
Control	to change the mindset of existing stakeholders from one of watching and enforcing, to one of deterrence, and only when that fails, apprehension and bringing to justice those who breach Commonwealth legislation.
Service	to encourage a 'service' culture, which bonds the providers and supports client agency confidence.

Location

It is unlikely that the proposed entity would need to be big enough to warrant creation as a stand-alone administration, or that the capital and administrative costs of setting it up separate from an existing agency could be justified in the foreseeable future. If that is accepted, then consider to which existing instrumentality should it be attached and in what administrative manner.

There are a number of models for location, administration and control of specialist agencies, e.g.

Emergency Management Australia (EMA)
Within the Department of Defence, but not part of the Armed Services.

The Australian Maritime Safety Authority (AMSA)
Created as a stand-alone agency by the AMSA Act.

The Australian Federal Police (AFP)
Created as a stand-alone agency by the AFP Act.

Coastwatch within the Australian Custom Service (ACS)
It is separately funded for the flying contract.

All the above models are obviously worth considering but the seminal decision is; which Minister should be responsible for the Charter and Functions set out above?

If it is the Minister of Defence, then EMA is the obvious model to adopt.

If it is the Minister for Transport as recommended by Hudson then the AMSA is the obvious model.

If it is the Minister for Justice, then it could be made the Coastal Control Service of the AFP and all its Officers could be Federal Agents.

Alternatively, it could continue to be physically co-located with the ACS but separated from ACS management by having its Chief Executive Officer report directly to the Minister for Justice.

If the Committee is sufficiently interested, a supplementary submission will be made addressing each of these options.

Charter Comment

To maximize cost effectiveness all the entity's surface unit officers would have to be trained and authorized to administer relevant Commonwealth legislation and to take enforcement action without consultation with agencies whose legislation is being monitored. Any requirement by the agencies for prior consultation about action being taken would reduce response times. Therefore, to give the agencies confidence in the entity's officers, the other agencies would have to be involved in the training regime.

Functions Comment

An essential element for acceptance by stakeholders will be input into the strategic planning of resource usage. This could be done by extending the use of the present Coastwatch interdepartmental committees to cover command and control of all Commonwealth Coastal Control Service resources, land, sea, and air. This will inevitably reduce regional autonomy but that is necessary to ensure that the usefulness of resources is not diminished by decisions of regional managers who, by virtue of their positions, have a narrower albeit more focused perspective than headquarters staff.

To ensure that this does not lead to inappropriate use of resources, the lines of communication between headquarters and regional managers will have to be kept short. Regional managers and headquarter managers must be encouraged to talk directly with each other and try to come to a consensus. However, if a consensus cannot be reached in a reasonable time, the headquarters officer must have authority to issue a directive and expect it to be carried out in spirit as well as to the letter. This authority includes the prerogative of being wrong and accepting responsibility for the consequences.

Resources

Another element for acceptance by stakeholders will be the Government's commitment of funds specifically to fulfil the Charter and Functions of the entity. It will be essential that the funds for any such entity be quarantined from those of the Department/Agency in which it is located. Given the high proportion of fixed costs compared to running costs any seepage of funds to a corporate pool would directly diminish the level of control that could be provided.

The physical resources for which the funds are necessary should be considered under headings of standing costs and running costs for: personnel, land stationary units, and land, sea, and air vehicles. If the Committee is sufficiently interested, a supplementary submission will be made addressing each of these requirements.

In consideration of the revisited issue that Navy could perform the surface function cost effectively by building patrol vessels to non-military standards, the notion is briefly addressed here. Even if fixed armaments are deleted, there are still major cost impositions for the construction, operation and maintenance of naval over non-naval patrol boats. They are caused by the number of crew not the construction standards.

Conclusion

This proposal and any other similar proposal to prevent and detect breaches of Commonwealth legislation in the coastal zone will fail unless:

The Charter encompasses all Commonwealth legislation capable of being breached on, under or over seawater.

The Charter is given to an entity with no other role, so that its existence depends solely on the fulfilling of its Charter.

The Charter is not shared with another entity, so that resources for the Functions are not dissipated.

The entity has operational commanders directly responsible to headquarters managers, to facilitate unequivocal responsibility.

Everyone in the chain of command, through to the Parliament, is committed to the conduct of face to face activities and prepared to accept that sometimes things will go wrong.

This proposal assumes that the Commonwealth Government wants to encourage compliance with all Commonwealth legislation capable of being breached between the coastal hinterland and the outer limits of the Exclusive Economic Zone and is prepared to commit a critical mass of resources to the task.

John F. Simmons

2 June 2000

JOHN F SIMMONS
MARINE CONSULTANT

Career Summary

I am a marine specialist with over 40 years experience in a variety of maritime industry environments. Currently I am a consultant/lecturer on all aspects of vessel purchasing, construction, operation, maintenance, staff selection and on-board health and safety. My clients include government agencies and vessel designers/builders. I was employed by the Australian Customs Service between 1975 and 1997 and was the principal adviser on all marine technical issues. I had direct responsibility for the acquisition, operation and maintenance of Australian Customs Vessels and the selection and training of their crews.

The tasks I found most rewarding included:

- Assisting operational groups with planning and execution of maritime operations ranging from surveillance of suspect yachts to ship search;
- Determining design requirements and preparing the tender documents for new Customs vessels and for the modification and maintenance of existing vessels;
- Assessing tenders and negotiating contracts for acquiring new vessels and for modifying and maintaining existing vessels;
- On-the-job and classroom training of Customs Officers in vessel running and maintenance, ship and small-craft searching and OH&S;
- Staff selection for shore based and seagoing positions;
- Negotiating conditions of service with union and public service managers;
- Representing Customs in the Industrial Relations Commission; and,
- Ministerial liaison and briefing of senior executives.

Before joining Customs I served an engineering apprenticeship at Cockatoo Docks in Sydney and sailed as a marine engineer with Union Steamships, BHP and Associated Steamships. My post seagoing career includes employment with the Australian Shipbuilding Board, Yarrow Admiralty Research Department (Aust.) Pty. Ltd., and the Fisheries Division of the Federal Department of Primary Industries.

Details of my experience, qualifications, personal particulars, and referees are available upon request.

John F. Simmons

2 June 2000